bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1278 OF 2007
IN
WRIT PETITION NO. 9906 OF 2004

Sandesh Rama Salvi ... Applicant

V/s

Tata Memorial Hospital & ors. ... Respondents

Mr. I.A.Engineer for the applicant.

Mr. S.K.Talsania i/by M/s. Mulla & Mulla & CBS for the respondents.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 7TH SEPT., 2007.

P.C.:

1. The applicant has prayed for the following reliefs:-

> "(i) Direct the petitioner to include the name of the applicant/respondent No.1 at Sr.No.1 in the list of badli workers maintained by the petitioners.
>
> (ii) Direct the petitioner to provide the applicant/respondent No.1 with work and wages whenever work is available giving him preference

being the senior most badli workers and a minimum of 20 days' work in every month.

(iii) For costs of this application."

2. Prayer (i) cannot be granted as, when the petition was admitted, this Court had directed the petitioners to include the name of the applicant in the list of badli workers at Sr.No.91. As regards prayer (ii), the grievance of the applicant is that he has not been provided work for 20 days although the work is available. By this prayer, the applicant has sought a direction to respondent No.1 who is the original petitioner to give him preference being the senior-most badly worker and allot him work for a minimum of 20 days per month. The contention of the applicant that he is the senior-most badli worker cannot be accepted since he was to be included in the list of badli workers at Sr.No.91 as per the order of this Court dated 22.9.2005. Therefore, he cannot, by any stretch of imagination, be accommodated as the senior-most worker.

3. Exh.2 to the affidavit filed by respondents 1 and 2 in the civil application indicates that from October, 2005 to June, 2007 the applicant has been allotted work for 20 days on an average. Therefore, the grievance

made by the applicant is not correct.

4. Mr. Talsania, the learned counsel for respondent Nos. 1 and 2 states that the applicant has not been willing to do night shift or overtime work allotted to him. Mr. Engineer, on instructions from the applicant who is present in Court states that the applicant is willing to work at night, as well as perform overtime work. On this statement being made, Mr. Talsania states that the work will be allotted to the applicant accordingly.

5. Civil application disposed of accordingly.

.....